

REMARKS

Claims 1-10 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The bases for the rejection are as follows:

(1) The terminology "said metal active material" does not have proper antecedent basis in claims 1, 6, 8 and 10. This rejection has been overcome by replacing the terminology "said metal active material" with the terminology --said Li alloying metal--.

(2) The terminology "a hard carbon thin film" in claim 2 is stated to be unclear. This rejection has been overcome by changing the terminology "a hard carbon thin film" to --diamond-like carbon thin film--. The terminology "diamond-like carbon", which is supported in the specification of the present application on page 4, lines 7-8, is art-recognized terminology that is used in the claims of 658 United States patents issued since 1976.

(3) The terminology "said film-form" in claim 9 should be changed to --said film form--. Claim 9 has been amended to correct this informality.

Claims 1-2 and 8 have been rejected under 35 U.S.C. §102(b) as being anticipated by Jinno et al. (JP 08-124597, abstract) ("Jinno"). Claims 1-2 are rejected under 35 U.S.C. §102(b) as being anticipated by Hirohata et al. (JP 11-317228, abstract) ("Hirohata").

This rejection is not understood because in each of the references a carbon material is used as an active material in a negative electrode and is coated with a lithium ion permeable film. Carbon is not a Li alloying metal. It appears that this rejection is related to the 35 U.S.C. § 112 rejection of the terminology "said metal active material" as being indefinite. I.e., the Office is believed be taking the position that carbon is a metal active material, i.e., a material active with a metal, e.g., with lithium. The amendment to the claims to change the terminology "said metal active material" with the terminology --said Li alloying metal-- avoids the rejection because carbon is not a Li alloying metal.

Removal of the 35 U.S.C. §§ 112 and 102 rejections is in order and is respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated June 6, 2003, and is believed to place

PATENT APPLN. NO. 09/904,514
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik
Reg. No. 25,401

Atty. Case No. MAM-002
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006
Tel: (202) 887-9023
Fax: (202) 887-9093
RJK/cfm